

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

United States of America,

Plaintiff

v.

Marcus Richard Thomas,

Defendant

Case No.: 2:17-cr-00126-JAD-GWF

Order Denying Motion to Reduce Sentence

[ECF No. 49]

Marcus Richard Thomas pled guilty to one count of possession of a stolen firearm, and I sentenced him to 110 months in custody followed by 3 years of supervised release.¹ Thomas now moves for a reduction in his sentence based on Amendment 821, a recent change to the sentencing guidelines that authorizes the reduction of extra criminal-history points known as “status points.” Thomas’s appointed attorney filed a notice explaining that he does not qualify for a sentence reduction because he did not receive any criminal-history status points and was not a zero-point offender at the time of sentencing.² Because I find that Thomas is not eligible for a sentence reduction under Amendment 821, I deny his motion.

Discussion

The Sentencing Commission submitted criminal-history amendments to Congress in May 2023, they took effect in November 2023, and courts have been applying them retroactively since February 2024.³ Thomas argues that he is entitled to a sentence reduction under the

¹ ECF No. 41.

² ECF No. 52.

³ Sent’g Guidelines for U.S. Courts, 88 Fed. Reg. 60534, 60534 (Sept. 1, 2023).

1 change added to the guidelines as § 4A1.1, which reduces the impact of “status points” on a
2 sentence. Status points are additional criminal-history points applied to a defendant who
3 committed his crime of conviction while under another criminal-justice sentence. Because the
4 Commission found that status points are less reliable indicators of rearrest, these changes allow
5 courts to depend less on status points to determine criminal history.⁴ A defendant with seven or
6 more criminal-history points may receive a one-point reduction in his status points, while a
7 defendant with six or fewer criminal-history points may have his status points eliminated for
8 committing his offenses while under a criminal-justice sentence.⁵ A court may reduce a
9 defendant’s sentence based on this amendment if his “term of imprisonment [was] based on a
10 sentencing range that has subsequently been lowered by the Sentencing Commission [under] 28
11 U.S.C. § 994(o) . . . after considering the factors set forth in section 3553(a) . . . if such a
12 reduction is consistent with applicable policy statements issued by the Sentencing
13 Commission.”⁶

14 Thomas contends that he is eligible for a sentence reduction based on this amendment.⁷
15 But as his appointed counsel acknowledges in a subsequent filing, Thomas doesn’t qualify for
16 this reduction because he had no status points in the first place.⁸ Thomas was sentenced with
17 seven criminal-history points, but no status points were added to his score because he did not
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20 ⁴ See U.S. Sent’g Comm’n, Revisiting Status Points (2022),
21 [https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-](https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2022/20220628_Status.pdf)
22 [publications/2022/20220628_Status.pdf](https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2022/20220628_Status.pdf).

22 ⁵ Sent’g Guidelines for U.S. Courts, 88 Fed. Reg. 60534, 60535 (Sept. 1, 2023).

22 ⁶ 18 U.S.C. § 3582(c)(2) (cleaned up).

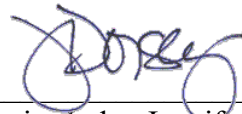
23 ⁷ ECF No. 49.

⁸ ECF No. 52.

1 commit his current offenses while under a criminal-justice sentence for a prior conviction.⁹ It's
2 impossible to reduce Thomas's status points under § 4A1.1 when he didn't receive any. So
3 Thomas is not entitled to a sentence reduction.

4 **Conclusion**

5 Because Marcus Richard Thomas has no status points to reduce under Amendment 821,
6 IT IS THEREFORE ORDERED that his motion for a sentence reduction under Amendment 821
7 [ECF No. 49] is DENIED.

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10 U.S. District Judge Jennifer A. Dorsey
11 October 29, 2024
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⁹ Presentence Investigation Report at 19.